

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Mortgage Broker License of:

No. 09F-BD002-BNK

3 **NATIONAL FUNDING COMMERCIAL
CORPORATION**

4 6263 N. Scottsdale Rd., Ste. 335,
5 Scottsdale, AZ 85250

**ORDER OF SUMMARY SUSPENSION
AND NOTICE OF HEARING TO REVOKE**


6 Respondent.

7 The Arizona Department of Financial Institutions (the "Department") hereby finds that
8 National Funding Commercial Corporation ("Respondent") has violated the provisions of the
9 Arizona Revised Statutes ("A.R.S."), Title 6 as set forth below and finds that the public health,
10 safety and welfare require emergency action pursuant to A.R.S. §§ 6-905 and 41-1092.11(B).

11 **THEREFORE, IT IS ORDERED** to summarily suspend the Arizona mortgage broker
12 license held by Respondent, effective immediately, pending the proceedings for revocation or other
13 action commenced this date. **This suspension is effective immediately.**

14 EFFECTIVE this 31 day of July, 2008.

15
16 Felecia A. Rotellini
17 Superintendent of Financial Institutions

18 By: 
19 Robert D. Charlton
20 Assistant Superintendent

21 **NOTICE OF HEARING AND COMPLAINT**

22 PLEASE TAKE NOTICE that, pursuant to A.R.S. §§ 6-138, and 41-1092.02, the above-
23 captioned matter will be heard through the Office of Administrative Hearings, an independent
24 agency, and is scheduled for September 8, 2008, at 9:00 a.m., at the Office of Administrative
25 Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona, (602) 542-9826 (the "Hearing").

26 The purpose of the Hearing is: (1) to determine whether grounds exist to suspend or revoke

1 Respondent's mortgage broker license; (2) to order any other remedy necessary or proper for the
2 enforcement of statutes and rules regulating mortgage brokers in Arizona pursuant to A.R.S. §§ 6-
3 123 and 6-131; and (3) to impose a civil money penalty pursuant to A.R.S. § 6-132.

4 Pursuant to A.R.S. § 6-138, the Superintendent of Financial Institutions for the State of
5 Arizona (the "Superintendent") delegates the authority vested in the Superintendent, whether implied
6 or expressed, to the Director of the Office of Administrative Hearings or the director's designee to
7 preside over the Hearing as the Administrative Law Judge, to make written recommendations to the
8 Superintendent consisting of proposed Findings of Fact, Conclusions of Law, and Order. The Office
9 of Administrative Hearings has designated Lewis Kowal, at the address and phone number listed
10 above, as the Administrative Law Judge for these proceedings. Pursuant to Arizona Administrative
11 Code ("A.A.C.") Rule 2-19-104 and A.R.S. §§ 41-1092.01(H)(1) and -1092.08, the Superintendent
12 retains authority to enter orders granting a stay, orders on motions for rehearing, final decisions
13 pursuant to A.R.S. § 41-1092.08 or other order or process which the Administrative Law Judge is
14 specifically prohibited from entering.

15 Motions to continue this matter shall be made in writing to the Administrative Law Judge **not**
16 **less than fifteen (15) days** prior to the date set for the Hearing. A copy of any motion to continue
17 shall be mailed or hand-delivered to the opposing party on the same date of filing with the Office of
18 Administrative Hearings.

19 A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by
20 counsel, or to proceed without counsel when submitting evidence, to have a reasonable opportunity
21 to inspect all documentary evidence, to cross-examine witnesses, to present evidence and witnesses
22 in support of his/her interests, and to have subpoenas issued by the Administrative Law Judge to
23 compel attendance of witnesses and production of evidence. Pursuant to A.R.S. § 41-1092.07(B),
24 any person may appear on his or her own behalf or by counsel.

25 Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be
26 made by a court reporter or by electronic means. Any party that requests a transcript of the

1 proceedings shall pay the cost of the transcript for the court reporter or other transcriber.

2 Questions concerning issues raised in this Notice of Hearing should be directed to Assistant
3 Attorney General Kelly LaPrade, (602) 542-7726, 1275 West Washington, Phoenix, Arizona 85007.

4 **NOTICE OF APPLICABLE RULES**

5 The hearing will be conducted pursuant to A.A.C. R20-4-1201 through R20-4-1220 and the
6 rules governing procedures before the Office of Administrative Hearings, A.A.C. R2-19-101 through
7 R2-19-122. A copy of these rules is enclosed.

8 Pursuant to A.A.C. R20-4-1209, Respondent shall file a written answer **within twenty (20)**
9 **days** after issuance of this Notice of Hearing. The answer shall briefly state the Respondent's
10 position or defense and shall specifically admit or deny each of the assertions contained in this
11 Notice of Hearing. If the answering Respondent is without or is unable to reasonably obtain
12 knowledge or information sufficient to form a belief as to the truth of an assertion, Respondent shall
13 so state, which shall have the effect of a denial. Any assertion not denied is deemed admitted. When
14 Respondent intends to deny only a part or a qualification of an assertion, or to qualify an assertion,
15 Respondent shall expressly admit so much of it as is true and shall deny the remainder. Any defense
16 not raised in the answer is deemed waived.

17 **If a timely answer is not filed, pursuant to A.A.C. R20-4-1209(D), Respondent will be**
18 **deemed in default** and the Superintendent may deem the findings in this Notice of Hearing as true
19 and admitted and the Superintendent may take whatever action is appropriate, including
20 (1) suspension or revocation of Respondent's license; (2) any other remedy necessary or proper for
21 the enforcement of statutes and rules regulating mortgage brokers in Arizona pursuant to A.R.S.
22 §§ 6-123 and 6-131; and (3) imposing a civil money penalty pursuant to A.R.S. § 6-132.

23 Respondent's answer shall be mailed or delivered to the Arizona Department of Financial
24 Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or
25 delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix,
26 Arizona 85007 and to Assistant Attorney General Kelly LaPrade, Consumer Protection & Advocacy

1 Section, Attorney General's Office, 1275 West Washington, Phoenix, Arizona 85007.

2 **Persons with disabilities may request reasonable accommodations such as interpreters,**
3 **alternative formats, or assistance with physical accessibility.** Requests for special
4 accommodations must be made as early as possible to allow time to arrange the accommodations. If
5 accommodations are required, call the Office of Administrative Hearings at (602) 542-9826.

6 FINDINGS

7 1. Respondent National Funding Commercial Corporation (hereinafter "NFCC") is an
8 Arizona Corporation authorized to transact business in Arizona as a mortgage broker, license
9 number MB 0909506, within the meaning of A.R.S. §§ 6-901, *et seq.* The nature of NFCC's
10 business is that of making, negotiating, or offering to make or negotiate loans secured by Arizona
11 real property, within the meaning of A.R.S. § 6-901(6).

12 2. Before conducting business as a mortgage broker, NFCC is required to have a
13 surety bond, deposited with the Superintendent, pursuant to A.R.S. § 6-903(G), in the required
14 amount, pursuant to A.R.S. § 6-903(H).

15 3. On or about February 29, 2008, the Department received a Cancellation Notice
16 from Contractors Bonding and Insurance Company, stating that NFCC's surety bond, number
17 AL4260, in the amount of ten thousand dollars (\$10,000.00) would be cancelled effective May 10,
18 2008.

19 4. On or about February 29, 2008, the Department attempted to send Patricia R.
20 Cameron ("Ms. Cameron"), the President of NFCC, a letter notifying her that a lapse in bond
21 coverage is a serious violation and that provided information detailing how NFCC could avoid
22 suspension due to bond cancellation. The letter was sent certified, article number 7001 1140 0000
23 3473 7509 to NFCC's address of record with the Department at 6263 N. Scottsdale Rd., # 335,
24 Scottsdale, AZ 85250. The certified letter was returned to the Department on April 25, 2008 marked
25 "return to sender." The certified letter had not been delivered despite attempts on March 5, 2008 and
26 April 17, 2008 by the U.S. Postal Service.

5. On or about May 21, 2008, the Department e-mailed Ms. Cameron notifying her that the Department received a bond cancellation notice.

6. Ms. Cameron failed to respond to the Department's e-mail and failed to obtain the required surety bond.

7. Upon further investigation on the Arizona Corporation Commission website, the Department discovered that NFCC's Annual Report is delinquent.

8. The mortgage broker license of NFCC is suspended.

9. NFCC does not have the required surety bond in order to conduct business as a mortgage broker.

10. The conduct described above constitutes an immediate threat to the public health, safety, and welfare warranting immediate suspension of Respondent's mortgage broker license because Respondent is conducting business in Arizona as a licensed mortgage broker without the required surety bond.

11. The conduct described above constitutes grounds for revocation pursuant to A.R.S. § 6-905(A)(3).

LAW

1. Pursuant to A.R.S. Title 6, Chapter 9, the Superintendent has the authority and duty to regulate all persons engaged in the mortgage broker business and with the enforcement of statutes, rules, and regulations relating to mortgage brokers.

2. By the conduct set forth above in the Complaint, Respondent violated A.R.S. § 6-903(G) by failing to maintain the required surety bond.

3. Respondent has not conducted business in accordance with the law and violated Title 6, Chapter 9 and the rules relating to this chapter, which are grounds for the suspension or revocation of Respondent's license pursuant to A.R.S. § 6-905.

4. The violations, set forth above, constitute grounds for the pursuit of any other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage brokers in

1 Arizona pursuant to A.R.S. §§ 6-123 and 6-131.

2 5. Pursuant to A.R.S. § 6-132, Respondent's violations of the aforementioned statutes
3 are grounds for a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation
4 for each day.

5 WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more of the
6 above described violations or other grounds for disciplinary action, the Superintendent may:
7 (1) suspend or revoke Respondent's mortgage broker license pursuant to A.R.S. § 6-905; (2) order
8 any other remedy necessary or proper for the enforcement of statutes and rules regulating mortgage
9 brokers in Arizona under A.R.S. §§ 6-123 and 6-131; and (3) impose a civil money penalty pursuant
10 to A.R.S. § 6-132.

11 DATED this 31 day of July, 2008.

12
13 Felecia A. Rotellini
Superintendent of Financial Institutions

14
15 By: 
16 Robert D. Charlton
Assistant Superintendent

17 ORIGINAL of the foregoing filed this 31st
18 day of July, 2008, in the office of:

19 Felecia Rotellini
20 Superintendent of Financial Institutions
Arizona Department of Financial Institutions
21 ATTN: Susan Longo
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

22 COPY mailed/delivered same date to:

23 Honorable Lewis Kowal
24 Administrative Law Judge
Office of the Administrative Hearings
25 1400 West Washington, Suite 101
26 Phoenix, AZ 85007

1 Kelly LaPrade, Assistant Attorney General
Attorney General's Office
2 1275 West Washington
Phoenix, AZ 85007
3

4 Robert D. Charlton, Assistant Superintendent
Richard Fergus, Licensing Manager
5 Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
6 Phoenix, AZ 85018

7 AND COPY MAILED SAME DATE, by
Certified Mail, Return Receipt Requested to:

8 Patricia R. Cameron, President
9 National Funding Commercial Corporation
6263 N. Scottsdale Rd., Ste. 335
10 Scottsdale, AZ 85250

11 Pacific Registered Agents, Inc.
Statutory Agents for:
12 National Funding Commercial Corporation
2415 E. Camelback Rd., Ste. 700,
13 Phoenix, AZ 85016

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